



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

THE INDUSTRIAL CRISIS AND THE BAR.*

It is my belief that within the next ten years our Constitution is going to be subjected to the severest strain that it has ever been called upon to bear. During the World War organized labor took advantage of the Nation's peril to boost wages to a point never dreamed of in human annals; and Mr. Gompers and the American Federation of Labor declare that these wages shall never be reduced. Once upon a time their plan might have been feasible. Our home markets sufficed for all the products of organized labor, and if the rest of the community would have submitted, prohibitive tariffs could have been imposed on foreign commerce, so that any rate of wages could be paid to labor at home. But that time has passed. We are now the greatest manufacturing nation on earth. We must look abroad for markets, and to the inexorable laws of competition even Mr. Gompers must submit.

Since the war we have been reaping a golden harvest. We have been the Danae of the nations, whom the gods have wooed with golden showers. During the five long years of conflict we alone had been manufacturing on a large scale, and the naked and hungry nations have had to buy of us on our terms. Like Joseph of old, we have been piling up our abundance in the fat years and have been selling them to the starving Egyptians at ruinous prices. But the end is already in sight. England, France, Belgium and Germany are recovering from the disasters and demoralization of the war. The industries of Spain and the Scandinavian countries received an impetus in the years of conflict. When its controversy with Jugo-Slavia is settled, Italy will disarm and return to the arts of peace. Some day even Russia must cast off the nightmare of Bolshevism, and resume civilized labor. The time when we have almost the monopoly of feeding and clothing the nations must inevitably pass away, and then wages in America must be lowered; and when that time arrives we may expect serious troubles and bitter attacks upon our Constitution and its guaranties of property rights.

*An address delivered before the Tennessee State Bar Association at Nashville by Hon. George B. Rose, of Little Rock, Arkansas.

It is not likely that wages will ever again be as low as in the past. The three mighty empires which have been swept away by the World War were great stabilizers of labor. Few employers pay more than they are compelled to pay. Wages are usually raised in consequence of a strike or the threat of a strike; and a strike with no possibility of using force or intimidation is sure to fail, unless there is behind it a united public sentiment. The despotic governments of the great empires permitted neither violence nor threats on the strikers' part, and so, strikes in those countries nearly always ended in submission to the masters. Germany, Russia and Austria had therefore vast armies of laborers working long hours for small pay, and they set the price of commodities so low that, in order to compete, other nations had to hold down the wage scale. But the three great despotisms have met the doom that they deserved, and the governments which have succeeded grant to the labor unions even wider latitude than they are accorded in England, France and America. The toilers of those countries will not voluntarily submit to the long hours and inadequate compensation of the past. Even in Japan, so long the abode of cheap labor, industrial troubles are now springing up on every hand, so that we see an amazing increase in the price of Japanese goods.

Napoleon predicted that within a century all Europe would be either republican or Cossack. Six years ago his prophecy seemed absurd. Despotism appeared as firmly established in Germany, Austria and Russia as free institutions in England, France, Italy, Switzerland, the Low Countries and Scandinavia. But the World War has realized Napoleon's prediction, and now, in addition to his many other claims to greatness, he must be hailed as the greatest of the prophets.

If all the laborers in the world would act in concert, they could maintain wages at the same high scale as in the United States today. But they are so scattered, many of them are so ignorant, and their interests are so diverse, that such a combination is unlikely, at least in our time; and when the competition with foreign manufacturers compels a reduction of wages in America, we may expect such assaults upon our constitutional guaranties as have never before been delivered. During these years of exces-

sive compensation our laboring classes have acquired habits of extravagance that will render it almost impossible for them to subsist upon wages such as they formerly earned, even if prices of commodities are reduced to the former level.

We all know that the World War is responsible for the demoralization of our labor. What we do not know is, whether that result was inevitable. It was indispensable that we should get into the conflict at the earliest possible moment. The very existence of civilization was at stake, and with all our sacrifices, our brave young heroes reached the Marne barely in time to save freedom from destruction at the hands of the victorious and bestial Hun. Had we not yielded to every demand of organized labor, all might have been lost. But while we won the victory and saved the world, which was tottering to its fall before the assaults of the most tremendous, the most unscrupulous and the cruelest power that the earth has even seen—a power with which we are still technically at war, and with which I hope that we shall never be reconciled until it has repented of its crimes in sackcloth and ashes—we must pay a tremendous price for our success.

At a time when it was apparent to our government, though not to our people, that war with Germany was inevitable, the four railroad brotherhoods forced upon Congress and the President the passage of the Adamson law by threatening the destruction of all transportation, the starvation of our cities and infinite loss and inconvenience to the rural population. Under ordinary circumstances, the reply of our government should have been a fight to the death against such amazing insolence. The President and Congress felt, however, that with war already at our gates, it was necessary to submit. They may have yielded to overwhelming necessity; but they should have borne in mind the disaster which followed during the French Revolution when the National Assembly permitted the mob to invade its halls and dictate its proceedings.

There was never anything so demoralizing to capital and labor as the cost plus fifteen per cent basis on which contracts were let during the war. It made it to the interest of the contractor to pay the highest wages possible, and all seem to have yielded

to the temptation. A concrete instance fell under my observation. A friend of mine had a man working for him at \$65.00 a month. That man would gladly have worked for the Government at \$100.00 per month. He went to work at Camp Pike, and at the end of the first month he proudly showed to my friend his pay check amounting to \$435.00. At least \$335.00 of this was pure waste. For more than two years he received such wages. Intoxicated by prosperity, he discarded the wife of his youth, and took up with a strumpet. When the work at Camp Pike was abandoned in consequence of the Armistice, he returned to his old job without a cent in his pocket, with his home broken up, and vitiated in character; and doubtless there were hundreds of thousands like him.

Mind you, I am not censuring our Government. The absolute necessity of coming to the immediate assistance of our allies, who were already tottering to their fall, may have rendered all this inevitable. But the deplorable consequences are with us yet, and every day that the present abnormal wages continue is going to increase the violence and discontent that will attend their inevitable reduction.

The danger is augmented by the prodigious increase in our urban population revealed by the census whose results are now being published. Everywhere the youths of the country, tempted by the enormous wages extorted by the labor unions, are flocking to the cities, so that the urban population, a majority of whom are probably composed of organized labor and those affiliated with it, are coming to dominate the land with their revolutionary ideas, while the farming class, who are usually conservative and attached to our ancient institutions, are being thrust into the background.

But there are also signs of great hope. A few years ago when the American Federation of Labor undertook to get control of our government, Mr. Gompers seemed to have more influence with the administration than all the Cabinet officers combined. He strode through the halls of Congress, and congressmen and senators bowed to do him reverence. The weakness of the Government permitted him to organize large sections of the public servants into unions affiliated with the American Federation of

Labor. The Scripture wisely says: "No man can serve two masters; for either he will hate the one and love the other, or he will hold to the one and despise the other." And between the Government, whose function it is to enforce a rigid performance of duty, and the Federation of Labor, whose sole purpose is to secure higher wages and shorter hours, it is not hard to see to which master the functionary would give his true allegiance.

Having crippled the National Government as far as possible, the American Federation of Labor next sought to get control of the city governments, and owing to the incredible weakness and folly of our municipal authorities, it was allowed to unionize the policemen in a large number of our American cities; and having done this, it invited a trial of strength to prove its power. At the dictation of the labor agitators all the policemen of Boston deserted their posts, and left the peaceable inhabitants to the mercy of thugs and ruffians. I was present in Boston, and witnessed some of the disorders and destruction of property that ensued. But fortunately, it was in the grand old State of Massachusetts that the gage of battle was thrown down, and the Puritan courage and the Puritan conscience, which have never failed us in any emergency, rose to meet the peril. Had the Boston police strike succeeded, the contagion would have spread like a devastating plague, and the men who should be the guardians of public order would everywhere have become its worst enemies. Fortunately, too, Massachusetts had at the head of its administration the heroic Governor Coolidge, and for Police Commissioner the equally heroic Mr. Curtis, and instead of yielding to the rebels, as the contemptible city government had done, they fought the good fight to a glorious finish; and the fact that Governor Coolidge has been rewarded with the nomination for the vice-presidency, proves that the hearts of our people are sound; while the Mayor of Seattle, at the other verge of the continent, has shown an equal courage in dealing with the I. W. W., and has met with an equal loyalty.

Another hopeful sign of the times is the freedom with which the United States Army is now used to maintain order in time of strikes. When Mr. Cleveland sent soldiers to Chicago in defiance of Governor Altgelt, he not only saved us from a civil

war, but he established a precedent which has been of incalculable value. As their leader bitterly complained, it was the quiet action of the army in maintaining order that broke down the inexcusable strike instigated by unprincipled agitators against the United States Steel Corporation. Had the army held off, he might have led his misguided followers into acts of violence that would have precipitated a real war between capital and labor. If these precedents had been set by Republican administrations, the effect would have been far less beneficial; for that has always been the party favored by the wealthy classes; but when set by a Democrat like Mr. Cleveland, and by Mr. Wilson, who has so often taken Mr. Gompers into his counsels, the result has been that no party that stands for law and order can resent the use of the Army when necessary for their preservation.

When the time for a reduction of wages arrives, as inevitably it must, the great danger is going to be in the unprincipled labor agitators, who will everywhere stir up strikes and endeavor to instigate acts of violence that will lead to industrial wars, which they hope will be the prelude to revolution and the establishment of a despotism of the proletariat, such as has reduced Russia to a desert. At such a time we are going to find our greatest ally in prohibition. In the old days, when a strike ensued, all the strikers went straight to the saloon. Here they drank whiskey and beer while the agitators stirred them up; and when they were drunk enough to be reckless, they were led forth to attacks on persons and to the destruction of property which arrayed them in open defiance of the law and placed them in a position where they had to stand together and obey the orders of their leaders as their only hope of salvation.

The abolition of the saloon deprives the agitator of his principal ally. If the striker has no place to go save home, where he sees his wife and children suffering and where time hangs heavy on his hands, it is difficult to prevent his returning to work; and as long as he remains entirely sober, it is hard to lead him into deeds of violence which will make him a criminal. Therefore, all the labor leaders are clamoring for the restoration of the saloon. Since prohibition went into effect we have had innumerable strikes, some of them, like the steel strike, the coal

strike and the longshoremen's strike, of prodigious proportions; but the total bloodshed and destruction of property have been less than used to attend a single strike of moderate dimensions.

A great many people think that the preachers and the moral fanatics are responsible for prohibition, and they look forward to the time when tobacco and even tea and coffee will be taken away. But in this they are entirely mistaken. It is the captains of industry, who are tired of drunken and inefficient labor and of murderous strikes that have brought it about, and who have availed themselves of the services of the preachers and fanatics. Recently I was talking to one of these captains of industry, and expressed a regret that they had extended prohibition to light wines and beer; but he replied, "I had rather have whiskey than beer. A man will take a drink of whiskey, gulp it down, and go back to his work. But when he orders beer he sits down at a table, slowly guzzles it, and orders glass after glass. Meanwhile the labor agitator is talking to him, and the more befuddled he becomes the more convinced he is that his employer is treating him like a brute. In the old days, when we paid our men off they went straight to the saloon. They drank only beer, but they continued to drink and to gamble until their last dollar was gone. Then they went home, found their families in want, and were convinced that the company did not pay them a living wage. In case of a strike the labor leaders saw that the men had money to spend for beer, and in the beer saloon all the outrages were planned."

I never knew anyone who was benefited by alcoholic drinks, and I have known many who were ruined thereby, and many more whose efficiency was impaired; so I am not enthusiastic for their return, though I confess that a festive occasion is apt to be dull without them. But of one thing I am sure, that, in order to avoid terrible misfortunes, prohibition must be rigidly enforced until the industrial readjustment has been accomplished, and normal conditions reestablished.

Please do not take me for a hide-bound conservative who believes that pre-war conditions were ideal. I do think that they were preferable to those that are likely to exist for some time to come. Talleyrand said that no one who had not lived before

the French Revolution knew anything about the pleasures of life; and we may live to say the same thing about those who have not lived before the World War. If the present movement toward socialism, to which so many of our pin-headed college professors are contributing, should succeed, and we should all become petty cogs in a great industrial machine controlled by labor agitators, we may look back with regret even to the nightmare of the Middle Ages.

The social fabric has never been perfect, and was far from perfect before the World War. There must be many changes. While property rights must be protected, the predatory rich must be restrained. Men engaged in transportation and in other pursuits essential to the public welfare, must be forbidden to strike, and must be compelled to submit their claims to an impartial tribunal. The laborer should be assured of wages as large as the business will stand without depriving the owner of his reasonable share of the profits. The school teacher, whose profession is perhaps the most important in the community, and who is now receiving less than a day laborer, should have a salary proportioned to the value of his services. Illegitimate children should be allowed to inherit from their fathers when their parentage is acknowledge or established. The murderer should not be allowed to inherit from his victim. A thousand reforms are demanded; but these should come by orderly legislation, carefully thought out, and not by revolution.

I see you wearily asking yourselves why you should have to submit to this tedious homily on the industrial problems that confront us. My purpose is merely to speak of the role that the bar must play in the crisis which I fear is approaching.

The only guardians of the Constitution are the lawyers, some on the bench, others at the bar. The man of means is very apt to regard the Constitution with favor as the guaranty of his property rights; but to the predatory rich, it and all other laws that restrain their greed are hateful. The vast majority of the laboring class look on the Constitution with disfavor as the barrier behind which the wealthy have entrenched themselves, and with whose aid they grind the faces of the poor. The labor agitators consider it their bitterest enemy; and all the cranks of

every shade from the lightest pink to deepest crimson would sweep it away as an impediment to the realization of their dreams.

In my own state our legislature at the dictation of the labor unions has submitted a constitutional amendment which will mean the abolition of the Constitution. Under it any numbers of amendments to the Constitution may be initiated at once, and a bare majority of those voting on the question will suffice for their adoption. If this is passed, Arkansas will cease to be a republic and will become an unbridled democracy. That form of government has rarely been tried. It was tried by Athens, which was possessed of the most intelligent citizenship that the world has ever seen. Yet the span of a single life would extend from its adoption through the glories that attended the leadership of Pericles to the horrors of the Sicilian expedition and the irretrievable ruin at Aegospotami; while the oligarchy of Sparta lasted from the time of Lycurgus to the Roman dominion, and the Venetian oligarchy continued for more than a thousand years. Yet such is the apathy of men on public questions that in my state there is no organized resistance to this scheme of the labor unions to abolish the Constitution, and the chances are that their monstrous amendment will pass.

The lawyers are the only group of men who love, revere and understand the Constitution. They alone comprehend its essential character, and they alone are willing to bestir themselves mightily in its defense; and just in proportion to the extent of their influence do we see the Constitution honored by the people.

In 1831 De Tocqueville visited this country, and on his return to France published his work on "Democracy in America," which would alone suffice to number him among the world's great thinkers. Particularly noteworthy is his chapter on the Bar, in which he shows so well its commanding influence in all matters social and political, and demonstrates the fact that it is the sheet anchor of our institutions, without which the ship of state must drift upon the rocks. A higher eulogy has rarely been passed upon a body of men.

But in the course of that chapter he uses these memorable words:

"I cannot believe that a republic could subsist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people."

This is a warning which should never be forgotten. It is the language of him who has looked more deeply into the genius of republican institutions than any other man; deeper even than Jefferson or Hamilton, over whose eyes, keen as they were, the passions of partisan conflict threw something of a veil.

The progress of our national development has been a strange blending of Hamiltonian and Jeffersonian principles. The strong central government that Hamilton desired has been attained, but not upon the aristocratic lines that seemed to him essential. The democratic spirit which Jefferson loved has completely triumphed, but with a neglect of those maxims of local self-government that were so dear to his heart. But one thing is exceedingly apparent: The power of the people, for good or evil, has increased immensely. Even the judiciary, the last bulwark of conservatism, has almost universally fallen into their hands by direct election.

Has the power of the Bar kept pace with the increase in the power of the people?

I fear that it would be a bold man who to this question would answer yea. Lawyers still hold most of the offices, because the practice of their profession gives them a facility in public speaking and a consequent advantage on the hustings, and brings them into contact with the voters; but the political and social power of the Bar has certainly declined.

As De Tocqueville points out, in the early days of our republic the Bar was practically a governing aristocracy. It almost attained to Cotton Mather's dream of what the Puritan clergy should be, a speaking aristocracy in the face of a silent democracy.

Politically and socially they were the unquestioned leaders. They spoke, and the people followed. Trusted by their fellow citizens in all emergencies, they swayed the destinies of the Nation. In every social gathering they were the most observed. Their names were on all lips, and were spoken with respect.

Alike in the town meeting and in the halls of Congress, it was their opinion that was chiefly sought and which guided the actions of men. The great lawyers of the past appear to us of gigantic size, their brows encircled with an aureole of glory; and this is because we still see them through the eyes of their contemporaries.

In my own city the monuments of their past greatness are to be seen on every hand. Before our Civil War the body of our citizens lived in small houses standing mostly upon the street, but the leaders of our Bar dwelt in stately mansions surrounded by handsome grounds each embracing an entire block. They stood amongst the rest of the community almost like the feudal barons of old. They have departed now, leaving only the memory of their greatness; and their mansions have not passed to their successors at the Bar, but to the successful banker or grocer whose accumulated wealth has enabled him to buy.

And so it has been throughout the land, though perhaps not in so marked degree as in the city where I dwell. There are still rich and influential lawyers, but neither their wealth nor their influence has kept pace with the growth of their communities. Personally they may stand as high in character and possessions as ever; but relatively they have declined, and their grasp on the helm of state has visibly weakened. To what is this to be attributed?

Many causes have united to produce this result; but one of the most notable is the growth of corporate power.

In the early days of our republic, corporations were few and weak. Men had not yet learned the advantages of cooperation in industrial affairs or the power of vast accumulations of capital. Each stood as a separate and distinct individual, and was not a mere wheel in a great machine. They thought and acted for themselves, each pursuing his limited private affairs, each only a free citizen of an independent commonwealth. In such a community the superior attainments and culture of the lawyer, his greater familiarity with all that pertains to government, made him the natural leader. He had only individual men to contend with, and against individual men he was more than able to hold his own.

But in this world nothing is stationary. The tide of life forever ebbs and flows, and we are borne almost helpless upon the flood of time. Nations move ever onward, carried along by some occult force which is the result of many conflicting inclinations, and which frequently leads to conclusions not desired by any individual in the mass.

It was reserved to our own age to realize fully the enormous results that can be achieved by combining the capital and strength of many in vast industrial undertakings. Through the instrumentality of corporations we have in an amazingly short time developed the resources of a mighty continent. We have made the desert to blossom like the rose, and the waste places teem with fertility and wealth. But it may now well be doubted whether the spirit that we have loosed has not become too strong to be controlled, and whether it does not menace the safety of our nation. It looks as if we were returning to the condition of affairs during the Middle Ages. The great corporations represent the feudal barons, while the trades unions take the place of the mediæval guilds; and in their strikes and lock-outs, too often attended by violence and bloodshed, they wage private war almost as freely as in the days of old.

In mediæval times the position of the free citizen was intolerable. He was insulted and robbed by the barons on every hands, and the King was too weak and too far away to afford protection; so that eventually he was glad to renounce his freedom, and to become the serf of the baron who seemed most able to shield him from wrong.

Something of the same thing has happened with the lawyers. As the wealth and business of the community have accumulated in the hands of corporations, the lawyer who would live has been compelled to turn to them for clients. The trades unions can no more aid him than could the serfs of the Middle Ages. The men who compose them live from hand to mouth, and can contribute little to the lawyer. A few members of the Bar may maintain themselves by damage suits for personal injuries, but that resource is too precarious to be relied upon by many. And while in the conflicts between capital and labor, capital has great need of lawyers, the means which labor relies upon for

success are generally such as lawyers can neither advise nor defend.

But the trouble is that when the lawyer serves a corporation he too often loses his individuality, and is swallowed up in the immense body corporate. He can have small corporations for his clients without that result; but corporations are every day consolidating and becoming larger, so that instead of one lawyer having many corporations among his clients, one corporation frequently demands the exclusive service of many lawyers. The Bar and their families must live, and as these great corporations can afford to pay large compensation, they can command great talents.

But it is apparent that the lawyer who is known only as the general or subordinate solicitor of some great corporation must lose his influence with the people. No matter how independent he may remain, no matter how public spirited he may be, the populace will see in him only the mouthpiece of the corporation that supports him. Like Cassandra, his prophecies and his warnings must fall on unbelieving ears. The people will turn from the path of safety which he points out, to follow the veriest demagogue into the snares and pitfalls of disaster. Though his tongue be of silver and wisdom drop from his lips as honey from the honeycomb, his voice will be but as sounding brass and tinkling cymbals in the ears of drowsy men.

And, in truth, the attitude of the lawyers in the service of these great corporations is a dependent one. The position of the general practitioner is very independent. He has many clients, and no one can injure him greatly by the withdrawal of his favor. So long as he discharges his duty with fidelity and capacity, he can count upon a substantial income. But the attorney employed by one of these great corporations has only one retainer. The foot of no other client ever crosses his threshold. If he resigns his place or is discharged, he stands absolutely without employment—an attitude appalling to any man, especially if he has a family to support. He must then go forth into the world, and starting at the bottom, must slowly build up a practice. It is extremely difficult for the man so circumstanced to preserve the independence of his opinions in

public affairs. The mere habit of the lawyer of looking at things from the standpoint of his client will warp his judgment, and unconsciously he will speak as the mouthpiece of the corporation. That so many lawyers occupying such positions retain their freedom of opinion in all that concerns the welfare of our country is one of the prides of our profession; but it is difficult to get the people at large to believe in their independence.

Another cause of the declining influence of the Bar is the enormous development of journalism. In old days there were few newspapers, and their price was high. They counted among their subscribers only the leading men, through whom the news of the day passed to the people at large; and having only such subscribers, the journals wrote for them. Now everyone buys and reads the newspapers. Perhaps the highest type of editors are as fit to guide public opinion as the leaders of the Bar. But unhappily the class who are most in need of guidance generally read only the yellow journals, whose sole motive is to create a sensation at any cost, or the socialist and agrarian sheets whose teachings are subversive of the foundation principles of our Constitution. In any event, the direction of public opinion, at least in the cities, has mostly passed from the lawyer to the editor. The man who breaks stones upon the highway will read his penny dreadful newspaper as he eats his lunch, and feel that he is as competent as John Marshall or Daniel Webster to pass upon the most intricate questions of government.

The organization of the political machine and the rise of the boss have also thrown the lawyer into the background of politics. He can appeal only to reason and justice and to the love of country. The boss and the machine offer substantial rewards to their adherents, and threaten financial ruin to those who oppose their machinations; and men are so constituted that they usually prefer private gain to the public welfare. Then, too, the lawyer, engrossed in his profession, can devote only a small portion of his time to public affairs; while the politician works night and day, and too frequently gets the people in such a state of mind that the eloquence of a Demosthenes would fall on unheeding ears.

Nor have the emoluments of the Bar kept pace with the

growth of the national wealth. It is true that there are now lawyers in our great cities who earn far more than the most illustrious of their predecessors; but their earnings are trivial compared with the incomes of the multi-millionaires who surround them. And however great their earnings may be, they are always insufficient. To make them, they are compelled to associate with their clients, whose incomes are many times as large; their gains are consumed in the expenses of living; and few of them are able to accumulate an independent fortune.

With their humbler brethren it is far worse. Their profits are often larger than those of their fathers, but the increase in their emoluments has not kept pace with the advance in the expenses; and no matter what may be the position of a lawyer at the Bar, he is, as compared with the well-to-do people of his community, poorer than those who went before.

This relative poverty has brought with it a decline in social influence. Society is organized on the basis of give and take; and with rare exceptions those who are unable to return hospitality in like kind and degree are suffered to drop out; as indeed their own self-respect usually induces them to do.

In the old days the heads of the Bar and their families were generally the leaders in all social functions. But their reign is over, and the leadership has passed to the families of the men who have accumulated great fortunes in finance or trade. In the golden book of New York's Four Hundred, prepared by the late lamented Ward McAlister—in that unappealable list of our country's peerage—I doubt whether the name of any lawyer was inscribed.

Many causes have contributed to this comparative decline of the Bar's emoluments. No man can accumulate a great fortune through his own unaided exertions. It is the man who sets many others to work and makes a profit upon the labor of each that amasses distinguished wealth; and the industrial and corporate development of our age has brought about the accumulation of enormous estates in comparison with which the largest fortune ever gathered in the practice of the law is pitiful indeed.

The greatest cause of the diminution of legal incomes is per-

haps the disproportionate increase in the membership of the Bar, a subject to which I shall advert again. But there are many directions in which the sources of the lawyer's income have been drying up.

Most of the collecting business was formerly in the hands of the Bar. It was lucrative and involved but moderate labor. Now it has chiefly passed to banks and collection agencies. When the lawyer is employed, it is only in seriously contested cases, where he earns his bread by the sweat of his brow.

The simplification of conveyances has taken away a large source of income, as has also the formation of title companies. In the old days a transfer of real estate generally brought a substantial profit to two members of the Bar. The seller engaged his lawyer to prepare the deed, and the buyer engaged his to examine the title. Now the seller generally uses a legal blank and he buys for a dime, and the buyer goes to a title company for an assurance for his title. The majority of trusts used to be administered by lawyers; now they are administered mostly by trust companies.

The formation of the great corporations, too, has diminished the aggregate of fees. They pay their counsel large salaries, but these are as nothing in comparison with what they would have to pay if each of their countless cases were taken on its merits. A single lawyer, who has acquired special proficiency in his line of practice, does the work of three, and gets the pay of one.

A great menace to the well-being of the Bar is the disproportionate increase of its numbers. With the invention of the typewriter, the simplification of pleadings and the improved methods of travel, one lawyer can now do the work of two in the olden time; yet the proportion of lawyers to the remainder of the community has enormously increased.

The statistics gathered by Mr. Mayer of the Chicago Bar are instructive on this point. He shows that in 1790 there was estimated to be one lawyer to every 1300 inhabitants. In 1850, when the first census of occupations was made, there was a little more than one lawyer for each 1000 inhabitants. In 1890

the number had risen to one lawyer for every 700 inhabitants; in 1900 there was one lawyer to every 662 inhabitants.

Lord Bacon in his essay on "Seditions and Troubles," enumerates as one of the causes of sedition in states "when more are bred scholars than preferments can take off." In his own day those were words of prophecy; but in our time they point to one of the greatest dangers that confront our modern civilization. Vast numbers of persons are now educated beyond their capacity and their position in life. When so educated, they look upon manual labor with contempt, and crowd every profession to overflowing. Unable to rise and even to earn a livelihood, they conclude that the world is out of joint and that the whole fabric of society should be brought down in clattering ruin. Of such are our anarchists made, men educated beyond their abilities, who have failed in life, and whose overweening vanity persuades them that the fault is not with them, but with the world.

This overcrowding has had an extremely deleterious effect upon the Bar. Only the strong arm of government can control men who are starving, men who hear their children cry for bread. Fear of punishment may restrain them from the commission of actual crime, but he who is hungry finds it easy to forget the ethics of the profession. Hence arise what is called "the ambulance corps," who flock to the scene of an accident like vultures to the carcass of a stricken horse, to persuade the injured to bring suit. Hence arises the practice of dividing fees with jailors, of soliciting business in person or through agents, and many other methods that are degrading to the dignity of the bar. In many places the law is degenerating into a trade that is pushed by very much the same methods that a patent medicine man would employ. And the evil is one that continually spreads. It began in the lowest stratum of the profession. Then the grade a little higher, finding that their business was being filched from them, concluded that they must fight the devil with fire; and so the evil has grown, ever reaching a higher stratum, like a plague slowly spreading from the sinks of a city to its proudest quarters, until the reputation of our noble profession is at stake.

There have been few things more barbaric than the old system of common law pleading. In the majority of cases it sacrificed the rights of the parties to barren technicalities. But it had one stupendous merit: None but a good lawyer could maintain himself at the bar. The pettifogger could neither get into court nor remain there if let in. At every step he was tripped up and his ignorance exposed. He could not worry through by main strength and awkwardness. His incapacity soon became manifest to all the world, and he was eliminated forever.

The code of civil procedure was one of the most splendid reforms that the world has seen. It substituted right for technicality. But alas, it also let down the bars and opened the floodgates. The practice under it is so simple that it can be mastered in a little while; and the facility of amendment is such that no mistake is fatal. It is the paradise of the pettifogger. He can get into court and stay there, whether he knows any law or not. His ignorance may bring destruction to his client, but it brings no exposure to himself. And so the evil breed has multiplied like flies in summer, until their practices threaten to call down reproach on all the Bar.

Many suggestions have been made for raising the standard of admission. The favorite is to require a collegiate education and a diploma from one of the established law schools. To this I see two great objections. In the first place, it would have excluded from practice nearly all of the really great lawyers that I have known. The vast majority of them were self-educated, and having acquired their knowledge by their own unaided exertions, were truly masters of it. My father, for example, whose learning excelled in its almost encyclopædic scope that of any man with whom I have ever been closely associated, was left a penniless orphan at fourteen, and had no schooling, except six months in a law school.

The other objection which impresses me is that what we need most in the crisis that confronts us is the influence of the lawyer with the people; and the lawyer who has sprung from the people, who has lived as one of them, sharing their joys and sorrows, their hopes and fears, has with them greater influence

than any lawyer who has gone through a college and a law school.

In our state we have an excellent country Bar, and I doubt not that you are equally fortunate in Tennessee. Despite the centralizing tendencies of the railroads and the telegraph, we still have in almost every county one or more good lawyers, who study their cases diligently and try them well, and who enjoy in the highest degree the respect and confidence of their fellow citizens. These men are true leaders in their communities, and it is principally due to their influence that the rural population, despite the pernicious activities of agrarian agitators, is so much more attached to the principles of the Constitution than the average denizen of the cities. Their position still closely resembles that of the lawyers of former days before the growth of corporations had made so radical a change in the relations of the leaders of the Bar to the people.

The changes in our industrial organization which have brought upon us the crisis which confronts us are also the cause of the diminished influence of the Bar. But we, who have studied the Constitution of the United States and the Constitutions of our respective states, and who realize how indispensable they are to our Nation's prosperity and orderly progress—we must defend them with all our might. Our influence is less than it has been in the past, less than it should be today; but we are the guardians of the temple, the only class who can be relied upon as a whole to defend it to the last, and in the crisis which I believe to be impending, we must stand together, fighting the good fight to the end, and with a devotion not unworthy to be compared with that of our youthful heroes, as at Chateau Thierry they drove back the exultant Hun and saved a shuddering world from enslavement and despair.